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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,276	10/24/2000	Blumberg J. Seth	16808-22	1090
33717	7590	12/24/2003	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			LEWIS, CHERYL RENEA	
			ART UNIT	PAPER NUMBER
			2177	

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/694,276	SETH, BLUMBERG J.	
	Examiner	Art Unit	
	Cheryl Lewis	2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 October 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-68 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-68 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-68 are presented for examination.

PRIORITY

2. Applicant has complied and receives the benefit of priority of an earlier filing date to application 60/158,164, filed October 7, 1999.

Drawings

3. The drawings are objected to because they fail to show necessary textual labels of features or symbols in Figures 2, 3, and 9. For example, placing a label, "CDPR operator computer", with element 60 of Figure 2, would give the viewer necessary detail to fully understand this element at a glance. A **descriptive** textual label for **each numbered element** in these figures would be needed to fully and better understand these figures without substantial analysis of the detailed specification. Any structural detail that is of sufficient importance to be described should be shown in the drawing. Optionally, applicant may wish to include a table next to the present figure to fulfill this requirement. See 37 CFR 1.83. 37 CFR 1.84(n)(o) is recited below:

"(n) Symbols. Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. Other symbols which are not universally recognized

may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.

(o) Legends. Suitable descriptive legends may be used, or may be required by the Examiner, where necessary for understanding of the drawing, subject to approval by the Office. They should contain as few words as possible."

INFORMATION DISCLOSURE STATEMENT

4. The information disclosure statements filed on October 24, 2000, paper no. 2 complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1, 2, 5, 6, 21, 23, 26, 39, 45, 47, 60, 62, 65, and 68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 11, 12, 14, 15, 19, 24, and 26 of U.S. Patent No. 6,240,415 B1.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim language of claims 1, 2, 5, 6, 21, 23, 26, 39, 45, 47, 60, 62, 65, and 68 are similar to the claim language of claims 1, 8, 11, 12, 14, 15, 19, 24, and 26 of Pat. No. 6,240,415 B1. Official Notice is given that it is well settled that the removal of limitations from a claimed invention, where the remainder of the structure is unaffected, would have been obvious.

The similarities between the instant claim limitations and the patented claim limitations of Pat. No. 6,240,415 B1 are presented in *italicize* format. The difference between the instant claim limitations and the patented claim limitations of Pat. No. 6,240,415 B1 are presented in underline format.

a. Pending Claim 1 and Patented Claim 1 recite the following:

"A method of sports management by a remote party of an entity owning at least one sports player and having a database for the sports management comprising: relating a current database of a player together with a historical database related to that player;

communicating the data between a central database processing resource and at least one remote party; receiving an access request message from the remote party via a communications link; transmitting an access enabling message to the remote party via the communications link wherein the remote party is authorized to access the database, the access enabling message permitting the remote party to access the database and access designated data from the database, the data in the database including historical data relating to the player with the current data related to that player being accessed; compiling a report from the accessed database, the report including the current data of a player together with the historical data related to that player; transmitting the compiled report of the data of the player to the remote party”

Patented Claims 1 and 62 further recites:

“including the steps of communication between a remote party and the central database processing resource through a computer network, providing credit card information of the remote user prior to providing the data and transferring said data to the remote user after charging a credit card for said data.”

b. Pending Claim 2 and patented claim 12 recite:

“comprising the steps of verifying that the access to the database is authorized.”

c. Pending Claim 5 and patented claim 14 recite:

“storing the report in the central database processing resource.”

d. Pending Claim 6 and patented claim 15 recite:

“controlling access to the central processing resource to selected multiple remote parties.”

e. Pending Claim 21 and patented claim 8 recite:

"A method of sports management by a remote party of an entity owning at least one sports player and having a database for the sports management comprising the steps of: the remote party viewing, using a computer, both current data for a player, and historical data about the player; the remote party analyzing, using a computer, the historical data and the current data related to the player based on predetermined characteristics; and the remote party reporting the analysis of the combined data to a central database processing resource associated with the management of a sports team or player.'

Patented claim 8 further recites:

"wherein a remote party of a database pays for at least one of an analysis of the data, and for submission of money into a bonus pool associated with at least one player of a sports team."

f. Pending Claim 23 and patented claim 8 recite:

"wherein a remote party of a database pays for at least one of an analysis of the data, and for submission of money into a bonus pool associated with at least one player of a sports team."

g. Pending Claims 29, 60, 65, and 68 and patented claim 11 recite:

"Apparatus for sports management by remote party of an entity owning at least one sports player and having a database for the sports management comprising: a program to relate historical data of a player together with current assessment data related to that player; a computer communication network for data communication being between a

central database processing resource reactive with the program and at least one remote party; means for receiving an access request message from a remote party via the communications link; means for transmitting an access enabling message to the remote party via the communications link wherein the remote party is authorized to access the database, the access enabling message permitting the remote party to access the database and access designated data from the database, the data in the database including current data relating to the player and historical data related to the player being accessed; means for compiling a report from the accessed database, the report including the current and historical data; the communication network being for transmitting the compiled report of the assessment data of the player to the remote party”

Patent Claim 11 further recites the following, as well as pending claim 26:
“the means for remote party transmitting a decision from a remote terminal to the database through a computer netwrk, the decision being at least one relating to the status of a player, financial reward to a player, financial reward to a team related to the player, or financial reward in relation to a sports competition with regard to a sports team.”

h. Pending Claim 39 and patented claim 19 recite:

“Apparatus for sports management by a remote party comprising: a screen used by a remote part for monitoring, using a computer, both current data for a player, and historical data about the player, the data being retained on a central database; the computer being for analyzing the current data and the historical data related to the

player based on predetermined characteristics; a communications network between a central database processing resource and the remote user for communicating the analysis of the combined data with the remote party"

Patent Claim 19 further recites the following, as well as pending claim 47:

"means for permitting a remote party of the database to pay for a communication with the central database through a computer network; and including a computer communication network for submitting data to a remote user after receipt of the payment."

i. Pending Claim 45 and patented claim 24 recite:

"A system for managing sport comprising: a computer based communications network; a computer at a central database processing resource provider to receive through the network, current data for a player, the current data, and historical data about the player, a screen for monitoring, using a computer, both the current data of the player, and the historical data about the player, the screen being used by a remote user; a processor for analyzing the current data and the historical data based on predetermined characteristics; a computer for receiving, through the network, the analysis; the remote user being capable in substantially real or near real time after receiving the analysis to respond to the analysis and submit a decision to a central database"

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2177

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 1-8, 15, 21, 24, 27-34, 37, 39, 43, 45, 46, 48-54, and 60-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin (Pat. No. 5,846,132, filed April 10, 1996); Fisher et al. (Pat. No. 6,085,191, filed March 25, 1998, hereinafter Fisher); and Baum (Pat. No. 6,042,492).
9. Regarding Claims 1, 21, 22, 29, 31, 39, 40, 45, and 48, Junkin teaches an interactive system allowing simulated or real time participation in a league.

The method and associated system for an interactive system allowing simulated or real time participation in a league as taught or suggested by Junkin includes:

relating a current database of a player (figure 1B, element 26, col. 4, lines 33-39); communicating the data between a central database processing resource and at least one remote party (figure 1, element 22, col. 4, lines 17-30, col. 6, lines 29-40); receiving an access request message from the remote party (col. 12, lines 61-66) via a communications link (col. 3, lines 61-67, col. 4, lines 1-4); the remote party is authorized to access the database (col. 3, lines 61-67, col. 4, lines 1-4); a program to relate

current assessment data related to a player (col. 3, lines 51-60); a computer communication network for data communication between a central database processing resource reactive with the program and at least one remote party (figure 1B, element 246).

However, Junkin does not expressly teach transmitting an access enabling message to the remote party and access enabling message permitting the remote party to access the database.

Fisher teaches the means which essentially comprise the same means as transmitting an access enabling message to the remote party (col. 12, lines 5-30, col. 19, lines 18-40) and access enabling message permitting the remote party to access the database (col. 12, lines 5-30, col. 19, lines 18-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of Junkin with Fisher's method of transmitting an access enabling message to the remote party and access enabling message permitting the remote party to access the database because Fisher's method enables a network management system having an access control engine (ACE) that restricts access by initiators, users and application programs acting on behalf of users, to be managed by objects in a network (col. 4, lines 55-59).

Fisher does not expressly teach a historical database related to a player, data in a database including historical data relating to a player with the current data related to that player being accessed; compiling a report from the accessed database, the report

including the current data of a player together with the historical data related to that player; and transmitting the compiled report of the data of a player to a remote party.

Baum teaches a historical database related to a player (Abstract, lines 10-11, col. 1, lines 13-18, col. 2, lines 10-18 and 28-45), data in a database including historical data relating to a player with the current data related to that player being accessed (col. 1, lines 13-18, col. 2, lines 10-18 and 28-45, col. 6, lines 1-20); compiling a report from the accessed database (col. 6, lines 33-42), the report including the current data of a player together with the historical data related to that player (col. 1, lines 13-18, col. 2, lines 10-18 and 28-45, col. 6, lines 1-32); and transmitting the compiled report of the data of a player to a remote party (col. 6, lines 33-49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of Fisher with Baum's method of a historical database related to a player, data in a database including historical data relating to a player with the current data related to that player being accessed; compiling a report from the accessed database, the report including the current data of a player together with the historical data related to that player; and transmitting the compiled report of the data of a player to a remote party because Baum's method enables a sports analysis and testing system includes a plurality of high-speed digital video cameras, each aimed at a player from a different perspective to record their movements and those of a ball in play (Abstract, lines 1-4).

10. Regarding Claims 2, 30, and 49, Fisher teaches verifying that the access to the database is authorized (Abstract, lines 15-19).

11. Regarding Claims 3 and 50, Junkin teaches periodically updating the database with at least one of the historical or current data about the player (col. 6, lines 41-52).
12. Regarding Claims 4, 34, and 51, Baum teaches analyzing the data of the player and providing the report to the remote party based on the analysis of the data of the player (col. 1, lines 13-18, col. 2, lines 10-18 and 28-45, col. 6, lines 1-32).
13. Regarding Claims 5, 32, and 52, Junkin teaches the central database processing resource (figure 1, element 22, col. 4, lines 17-30, col. 6, lines 29-40).
14. Regarding Claims 6, 33, and 53, Junkin teaches data in the database is accessible to selected multiple remote parties (col. 3, lines 61-67, coo. 4, lines 1-4).
15. Regarding Claim 7, Fisher teaches verifying that selected remote parties are authorized to access the database or selected data in the database (col. 12, lines 5-30, col. 19, lines 18-40).
16. Regarding Claims 8 and 54, Baum teaches combining historical data of players with current data of players thereby to permit an analysis predicting play scenarios and probabilities of selected players (Abstract, lines 10-11, col. 1, lines 13-18, col. 2, lines 10-18 and 28-45, col. 4, lines 9-58).
17. Regarding Claims 10 and 24, Baum teaches receiving data of a subject player, storing, retrieving, comparing, analyzing the data thereby to obtain assessment data (col. 1, lines 13-18, col. 2, lines 10-18 and 28-45, col. 6, lines 1-32).
18. Regarding Claims 15, 27, 28, 37, 43, and 46, Baum teaches substantially real or near real time in relation to the communication received by the remote user (Abstract, lines 1-14).

19. Regarding Claims 60-68, the limitations of these claims have been noted in the rejection above. They are therefore rejected as set forth above.

20. Claims 9, 23, 25, 26, 14, 36, 41, 42, 47, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin (Pat. No. 5,846,132, filed April 10, 1996); Fisher et al. (Pat. No. 6,085,191, filed March 25, 1998, hereinafter Fisher); and Baum (Pat. No. 6,042,492) as applied to claims 1, 21, 29, 39, 45, and 48 above, and further in view of Fisk (Pat. No. 6,280,325 B1, filed May 13, 1999).

21. Regarding Claims 9, 25, and 55, Junkin teaches an access request from remote parties via a communications link (col. 3, lines 61-67, col. 4, lines 1-4).

However, Junkin, Fisher, and Baum do not expressly teach the communications link is selectively a computer network, preferably the Internet.

Fisk teaches the communications link is selectively a computer network, preferably the Internet (figure 1, element 14 'Internet').

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods of Junkin, Fisher, and Baum with Fisk's method of a communications link is selectively a computer network, preferably the Internet because Fisk's method enables a computer network which manages multiple simultaneous bingo games having a potentially large number of bingo cards for administration of a computerized bingo game through use of Internet communications in the form of formatted HTML pages, the Internet communicates with players, the players comprising specific actions that payers may take in interacting with an Internet server (col. 7, lines 57-67).

22. Regarding Claims 14, 23, 26, 36, 41, 42, and 47, Fisk teaches financial reward to a player (col. 8, lines 29-57).

23. Claims 11, 12, 13, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin (Pat. No. 5,846,132, filed April 10, 1996); Fisher et al. (Pat. No. 6,085,191, filed March 25, 1998, hereinafter Fisher); and Baum (Pat. No. 6,042,492) as applied to claims 1 and 29 above, and further in view of Walker et al. (Pat. No. 6,224,486 B1, filed February 24, 1998, hereinafter Walker).

24. Regarding Claim 11, Junkin, Fisher, and Baum do not expressly teach encrypting the data.

Walker teaches encrypting the data (col. 17, lines 17-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods of Junkin, Fisher, and Baum with Walker's method of encrypting data because Walker's method enables securing data, the secure data provides a secure perimeter, where an input and output device may store cryptographic keys within the secure perimeter to encrypt credit card information before it is communicated to a game controller (col. 17, lines 17-21).

25. Regarding Claims 12 and 35, Walker teaches providing credit card information of the remote user prior to providing the data and transferring such data to the remote user after charging a credit card for such data (col. 7, lines 9-21, col. 14, lines 59-67, col. 15, lines 1-17).

26. Regarding Claim 13, Walker teaches transferring money electronically via a telecommunications line between respective financial entities related to the remote party

and to an operator of the central database, and, after transfer of money electronically, providing data from the central database to the remote party (col. 14, lines 59-67, col. 15, lines 1-17).

27. Claims 16, 28, 38, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin (Pat. No. 5,846,132, filed April 10, 1996); Fisher et al. (Pat. No. 6,085,191, filed March 25, 1998, hereinafter Fisher); and Baum (Pat. No. 6,042,492) as applied to claims 1, 21, 29, and 39 above, and further in view of Barstow et al. (Pat. No. 6,204,862 B1, filed June 9, 1997, hereinafter Barstow).

28. Regarding Claims 16, 38, and 44, Junkin, Fisher, and Baum do not expressly teach remote party receives information about a sports event through television and responds through the computer network to the database.

Barstow teaches remote party receives information about a sports event through television and responds through the computer network to the database (col. 8, lines 49-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods of Junkin, Fisher, and Baum with Barstow's method of remote party receives information about a sports event through television and responds through the computer network to the database because Barstow's method enables a live event may be broadcasted by producing a computer coded description of the sub-events that constitute the event, the coded description is stored in a centralized computer data base and the information thus stored is accessible by a viewer's computer (Abstract, lines 1-5).

29. Claims 17-20 and 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin (Pat. No. 5,846,132, filed April 10, 1996); Fisher et al. (Pat. No. 6,085,191, filed March 25, 1998, hereinafter Fisher); and Baum (Pat. No. 6,042,492) as applied to claims 1, 21, 29, and 39 above, and further in view of Kohorn (Pat. No. 5,508,731, filed February 25, 1993).

30. Regarding Claims 17-20 and 56-59, the limitations of these claims have been noted in the rejection above. In addition, Kohorn teaches at least one expert opinion (col. 12, lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods of Junkin, Fisher, and Baum with Kohorn's method of comprising an expert opinion because Kohorn's method enables a method for wagering and for evaluating responses to broadcast programs, such as television programs, includes an instructional signal modulated onto a signal transmitted concurrently with the television program, or time-multiplexed with a television (Abstract, lines 1-5).

CONCLUSION

31. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

NAME OF CONTACT

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (703) 305-8750. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. (703) 746-5651 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Cheryl Lewis
Patent Examiner
November 28, 2003



SRIRAMA CHANNAVAJALA
PRIMARY EXAMINER